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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,850	01/16/2004	Fabien LORANGER	51624.2	1849
22828	7590	12/13/2007	EXAMINER	
EDWARD YOO C/O BENNETT JONES			PEDDER, DENNIS H	
1000 ATCO CENTRE			ART UNIT	PAPER NUMBER
10035 - 105 STREET			3612	
EDMONTON, ALBERTA, AB T5J3T2				
CANADA				
MAIL DATE		DELIVERY MODE		
12/13/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/707,850	LORANGER, FABIEN
	Examiner Dennis H. Pedder	Art Unit 3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 December 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 15 is/are allowed.
- 6) Claim(s) 1-11, 13 and 14 is/are rejected.
- 7) Claim(s) 12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 June 2004 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ .   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-11, 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton, US 1,477,111, in view of Phillips et al. and Robertson.

Eaton has the shelter as claimed, lacking only the raised floor and pivotal front and rear support members. The former is disclosed by Phillips et al. at 14 and the latter by Robertson at 66/68, all in the same field of endeavor as applicant.

Per applicant's first listed rationale for a proper rejection from KSR INTERNATIONAL CO. V. TELEFLEX INC. ET AL. US SUPREME COURT, APRIL 30, 2007, "when a patent (application) simply arranges old elements with each performing the same known function...the combination is obvious". Per applicant's second listed rationale from that above Supreme Court case law, "A combination...is likely to be obvious when it does no more than yield predictable results". Both of these criteria are met by the proffered claims of applicant. The vehicle of Eaton is as much a pickup truck as that of applicant and carries a collapsible shelter. The raised floor of Phillips et al. performs the same function in dividing the bed as does that of applicant. The pivotal front and rear support members of Robertson provide a collapsible shelter as does that of applicant. It would have been

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obvious to one of ordinary skill to provide in Eaton a raised floor as taught by Phillips et al. in order to provide increased storage and pivotal front and rear supports as taught by Robertson in order to quickly collapse and erect the shelter.

As to claim 2, Phillips et al. has cross beams 30 and 50.

As to claim 3, Eaton has support member 32.

As to claims 4 and 5, Eaton has tension bar 26 and slide arm 27.

As to claim 6, see hinges 24,25, and 59 of Eaton.

As to claim 9, the rear support of Robertson is an A-shaped frame and the front support has posts 66.

As to claim 10, Robertson has locking means 130.

As to claim 11, Robertson's bracket 74 is fastened to the floor through the side wall. In addition, Eaton teaches floor mounting of the rear support member. Note claim 11 missing an indefinite article prior to "bracket".

As to claim 13, Eaton has platform 50.

As to claim 14, applicant admits this structure is known in paragraph 0039.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eaton in view of Phillips et al. and Robertson as applied to claim 1 above, and further in view of Neville.

It would have been obvious to one of ordinary skill to provide in the references above a slidable bed support as taught by Neville in figures 4 and 5 in order to reduce the effort of movement of the bunk.

***Allowable Subject Matter***

4. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claim 15 is allowed.

***Response to Arguments***

6. Applicant's arguments filed 12/3/2007 have been fully considered but they are not persuasive. Applicant's arguments, in addition to those discussed above, are generally related to the cited art being "a different tent attachment compared to Applicant's claimed shelter", citing the lack of pivotal floor, the ridge pole design of applicant, and the lack of a main frame taught by Robertson. These arguments are fallacious. It is the claims that define the invention and potential patentably distinct differences must be claimed in order to define over the cited references which are known in this art in addition to being from the same field of endeavor as applicant, and obvious to combine as stated above. However, if applicant believes that the rejection is flawed, appeal may now be taken since the claims have been twice rejected. Absent further claim limitations to define over the cited references, which should be presented in an RCE or CIP application and not after final, the rejection stands.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

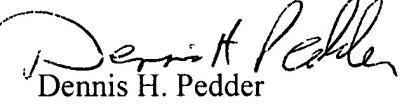
*Priority*

8. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Dennis H. Pedder  
Primary Examiner  
Art Unit 3612  
*12/12/07*

DHP  
12/12/2007